

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DURACELL U.S. OPERATIONS, INC., a  
Delaware corporation,

Plaintiff,

v.

MY IMPORTS USA LLC, a New Jersey  
limited liability company, MY IMPORT USA  
INC., a New Jersey corporation, MANSUR  
MAQSUDI (a/k/a MANSUR MAQ), an  
individual, JIAN YANG ZHANG (a/k/a  
KEVIN ZHANG), an individual,

Defendants.

Case No: 19-cv-3820

**NOTICE OF SETTLEMENT AND MOTION FOR ENTRY OF CONSENT JUDGMENT  
AGAINST DEFENDANTS MY IMPORT USA INC. AND JIAN YANG ZHANG A/K/A  
KEVIN ZHANG**

Plaintiff Duracell U.S. Operations, Inc. (“Duracell”), by its attorney, Robert N. Phillips, and Defendants MY Import USA Inc. and Jian Yang Zhang a/k/a Kevin Zhang (collectively, the “Settling Defendants”), through their attorney, Michael V. Cibella, hereby notify the Court of their settlement of this action and respectfully move this Court to enter a Consent Judgment as follows:

1. This motion for entry of a Consent Judgment represents part of Duracell and the Settling Defendants’ amicable settlement of this action, and shall not be considered an admission of fault or liability by any Party.

2. Except for the injunctive relief provided by the Consent Judgment, and subject to entry of the Consent Judgment, Duracell agrees to dismiss with prejudice all other claims in this action against the Settling Defendants.

3. For purposes of the Consent Judgment, the term “Unauthorized Duracell

Batteries” shall include: (a) all bulk-packaged Duracell-branded batteries, including but not limited to, OEM batteries labeled with “Original Equipment Accessory,” “Not for Retail Sale,” and/or other similar indicia, and batteries intended for industrial and professional use, labeled with “Not for Retail Trade,” “Professional,” “Industrial,” “PROCELL,” and/or similar indicia; (b) Duracell-branded batteries intended for sale only in foreign markets (indicated by a foreign manufacturing location, a lack of United States customer service contact information on product packaging, the presence of an image of a bunny, rabbit, or bear on product packaging, and/or other similar indicia); and (c) any Duracell-branded batteries that have been repackaged or are otherwise being sold in any manner outside of their original retail packaging.

4. The Settling Defendants and their partners, officers, agents, servants, employees, owners, representatives and all other persons, firms or corporations in active concert or participation with the Settling Defendants, shall immediately cease and permanently refrain from importing, acquiring, purchasing, offering for sale, or selling Unauthorized Duracell Batteries.

5. This Consent Judgment shall be enforceable upon entry. Duracell and the Settling Defendants hereby waive findings of fact, conclusions of law, a statement of decision and any right to set aside the Consent Judgment, appeal therefrom, seek a new trial, or otherwise contest the validity of the Consent Judgment.

6. This Court shall retain jurisdiction to enforce the terms of the Parties' settlement agreement, and the Consent Judgment in the form submitted herewith.

Dated: February 4, 2020

/s/ Robert N. Phillips

Peter D. Raymond  
Robert N. Phillips (Admitted *Pro Hac Vice*)  
REED SMITH LLP  
599 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 521-5400  
Facsimile: (212) 521-5450  
Email: praymond@reedsmith.com  
Email: robphillips@reedsmith.com

Attorneys for Plaintiff  
DURACELL US OPERATIONS, INC.

Dated: February 4, 2020

/s/ Michael V. Cibella

Michael V. Cibella  
LAW OFFICES OF MICHAEL V.  
CIBELLA, LLC  
546 Fifth Avenue, 6<sup>th</sup> Floor  
New York, NY 10036  
Telephone: (212) 818-1880  
Facsimile: (212) 750-8297  
Email: mvc@cibellalaw.com

Attorneys for Defendants  
MY IMPORT USA INC. and JIAN YANG  
ZHANG a/k/a KEVIN ZHANG



2. For purposes of this Consent Judgment, the term “Unauthorized Duracell Batteries” shall include: (a) all bulk-packaged Duracell-branded batteries, including but not limited to, OEM batteries labeled with “Original Equipment Accessory,” “Not for Retail Sale,” and/or other similar indicia, and batteries intended for industrial and professional use, labeled with “Not for Retail Trade,” “Professional,” “Industrial,” “PROCELL,” and/or similar indicia; (b) Duracell-branded batteries intended for sale only in foreign markets (indicated by a foreign manufacturing location, a lack of United States customer service contact information on product packaging, the presence of an image of a bunny, rabbit, or bear on product packaging, and/or other similar indicia); and (c) any Duracell-branded batteries that have been repackaged or are otherwise being sold in any manner outside of their original retail packaging.

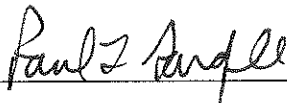
3. The Settling Defendants and their partners, officers, agents, servants, employees, owners, representatives and all other persons, firms or corporations in active concert or participation with the Settling Defendants, shall immediately cease and permanently refrain from importing, acquiring, purchasing, offering for sale, or selling Unauthorized Duracell Batteries.

4. This Consent Judgment shall be enforceable upon entry. Duracell and the Settling Defendants hereby waive findings of fact, conclusions of law, a statement of decision and any right to set aside this Consent Judgment, appeal therefrom, seek a new trial, or otherwise contest the validity of this Consent Judgment.

5. This Court shall retain jurisdiction to enforce the terms of the Parties' Agreement, and this Consent Judgment.

**IT IS SO ORDERED.**

**SIGNED** and **ENTERED** this 10th day of February 2020.



PAUL G. GARDEPHE, U.S.D.J.

SEEN AND AGREED:

Dated: February 4, 2020

/s/ Robert N. Phillips

Peter D. Raymond  
Robert N. Phillips  
(Admitted *Pro Hac Vice*)  
REED SMITH LLP  
599 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 521-5400  
Facsimile: (212) 521-5450  
Email: praymond@reedsmith.com  
Email: robphillips@reedsmith.com

Attorneys for Plaintiff  
DURACELL US OPERATIONS, INC.

Dated: February 4, 2020

/s/ Michael V. Cibella

Michael V. Cibella  
LAW OFFICES OF MICHAEL V.  
CIBELLA, LLC  
546 Fifth Avenue, 6<sup>th</sup> Floor  
New York, NY 10036  
Telephone: (212) 818-1880  
Facsimile: (212) 750-8297  
Email: mvc@cibellalaw.com

Attorneys for Defendants  
MY IMPORT USA INC. and JIAN YANG  
ZHANG a/k/a KEVIN ZHANG